

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

Maduro Distributors, Inc.,

Plaintiff,

v.

Loonvape.net,

Defendant.

Civil Action No.

VERIFIED COMPLAINT

Plaintiff Maduro Distributors, Inc. (“Maduro”) d/b/a The Loon, by and through its undersigned counsel, alleges as follows for its Verified Complaint against the Defendant Internet domain name loonvape.net (“Defendant Domain Name”) arising under the Lanham Act, 15 U.S.C. § 1125(d), for violations of the Anti-Cybersquatting Consumer Protection Act (“ACPA”).

NATURE OF THE ACTION

1. This is an *in rem* action for cybersquatting under the Federal Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), against the Defendant Domain Name loonvape.net.

THE PARTIES

2. Maduro is a Minnesota corporation with a business address at 7580 Commerce Lane, NE, Fridley, Minnesota 55432.

3. Defendant Domain Name is an Internet domain name which according to records in the WHOIS database of domain name registrations, was registered on September 8, 2023 through the domain name registrar NameSilo, LLC, by a Registrant shielding his or her identity using the privacy protection service PrivacyGuardian.org LLC. A copy of the domain name registration record for Defendant Domain Name is attached as Exhibit 1.

JURISDICTION AND VENUE

4. This is a civil action for federal cybersquatting in violation of the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d) concerning the Domain Name, which, upon information and belief, is being used for acts of trademark infringement, unfair competition, and false designation of origin under the Lanham Act, 15 U.S.C. §§ 1114(1) and 1125(a).

5. This Court has original jurisdiction under 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has *in rem* jurisdiction over the Defendant Domain Name pursuant to 15 U.S.C. § 1125(d)(2)(A). *In rem* jurisdiction is appropriate under 15 U.S.C. § 1125(d)(2)(A)(i)(I) because the internet domain name Registry for the Domain Name is Verisign, Inc., which is located in this judicial district at 12061 Bluemont Way, Reston, Virginia 20190, and because the listed registrant of the Defendant Domain Name is a privacy service and therefore Maduro cannot find a person who would have been a defendant in a civil action under 15 U.S.C. § 1125(d)(1)(A).

7. Pursuant to 15 U.S.C. § 1125(d)(2)(A)(i)(II)(aa), Maduro will give notice of the violation of Maduro's rights, and Maduro's intent to proceed *in rem*, to the postal and e-mail addresses set forth in the registration records for the Defendant Domain Name, or where no postal or email address is available, to the domain name registrar.

8. Venue is proper in this District pursuant to 15 U.S.C. § 1125(d)(2)(C) and 28 U.S.C. 1391(b)(2) in that the .net domain name registry operator, Verisign, Inc., is located in this district and pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims occurred in this district.

BACKGROUND

A. Maduro and the LOON Trademarks

9. Maduro is a distributor of electronic cigarettes, e-liquids and accessories therefor. Maduro sells its products through wholesale distribution channels and advertises them on its website, www.theloonmn.com.

10. Maduro is the owner of the LOON brand of e-cigarettes and accessories therefor, including a family of marks consisting of or incorporating the term LOON for use in connection with such goods.

11. Maduro owns the following valid and subsisting U.S. trademark registrations for the LOON marks (the “Loon Registered Marks”):

MARK	U.S. REG. NUMBER
DRIP BY LOON	7001909
LOON SALTS	7102769
LOON TYPHOON	7102840
LOON	7185467
LOON MAXX	7191799

12. In addition to the LOON Registered Marks, Maduro also owns substantial common law rights in its various LOON marks, as well as pending U.S. Trademark Application Nos. 980229057 for LOON BAR; 98242490 for LOON NYXX; and 98025293 for LOON for use in connection with online retail services (the Loon Registered Marks, common law rights, and the marks identified in the pending applications shall be referred to collectively as the “LOON Marks”).

13. Maduro has offered for sale in U.S. commerce electronic cigarettes and vaping devices in connection with the LOON Marks since at least as early as August 2012.

14. Maduro advertises its products bearing the LOON Marks through Maduro’s website, <https://theloonmn.com>, and sells those products through various channels of trade,

including through wholesale distributors of vaping products and directly to consumers in certain circumstances.

15. Maduro has advertised and promoted goods bearing the LOON Marks in various media, including industry-leading trade shows and through the Internet.

16. Any electronic cigarette articles currently sold in the United States bearing the LOON Marks that are not authorized by Maduro are counterfeit.

17. Maduro has expended substantial amounts of money, time, and effort in advertising, promoting, and popularizing the LOON Marks and in preserving the goodwill associated therewith.

18. The LOON Marks and distinguishable logo are widely recognized as the source identifier of Maduro and its high-quality goods. Maduro's LOON Marks have become distinctive of and associated in the minds of the trade and purchasing public with Maduro as a well-known provider of its goods.

19. The relevant consuming public has come to know Maduro's LOON Marks and recognize that any goods so marked originate with Maduro. By virtue of these efforts and by virtue of the excellence of its goods, Maduro has gained a valuable reputation for the LOON Marks.

B. Defendant and Its Infringing Conduct

20. The Defendant Domain Name was registered on September 8, 2023, through the domain name registrar NameSilo, LLC.

21. The Defendant Domain Name was registered in a manner to conceal the identity of the true owner of the domain name.

22. After registration, Defendant Domain Name and unknown persons associated therewith configured a website to replicate the genuine LOON Vape website available at

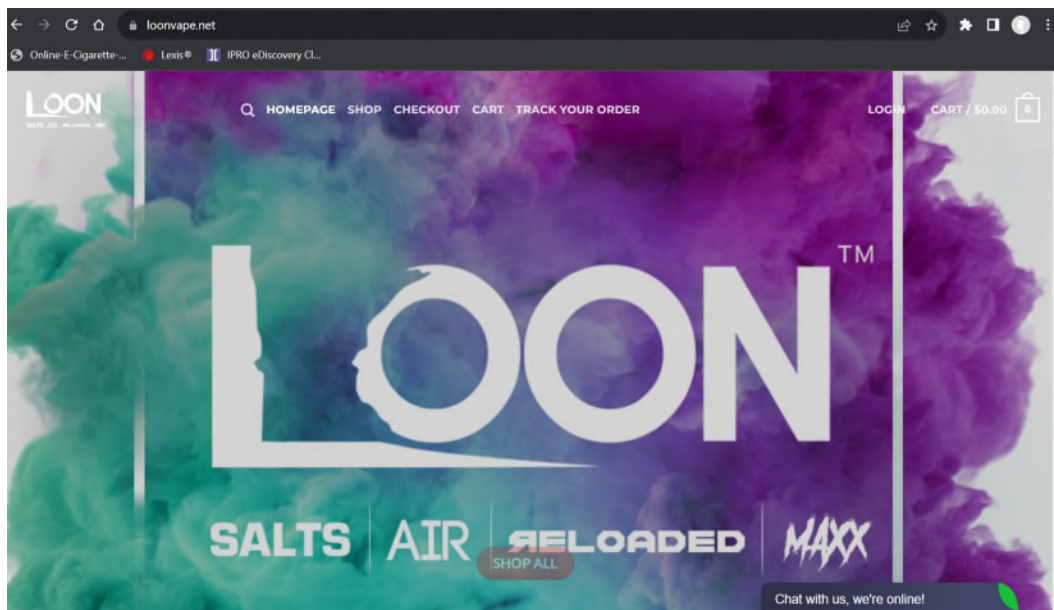
theloonmn.com, copying certain content in its entirety.

23. The website displays unauthorized images of Maduro's goods bearing the LOON Marks, which are used to advertise and purportedly sell counterfeit LOON products that are not authorized by, affiliated with, or endorsed by Maduro.

24. Defendant Domain Name does not include any contact information on the website, only permits orders of \$130.00 or more, and only accepts payment via methods such as Bitcoin, Apple/Google Pay, Chime/PayPal/Venmo, or Zelle/CashApp.

25. Although the website displays infringing images of Maduro's products bearing the LOON Marks, on information and belief, no products are sold through the website displayed at Defendant Domain Name, but rather it is a phishing website used to acquire consumer contact data and generate funds illegally and fraudulently.

26. The following are screen captures of the website displayed at the Defendant Domain Name, which display the Loon Marks and other content misappropriated from Maduro and its marketing materials, none of which is authorized by or affiliated with Maduro:



loonvape.net/product-category/loon-maxx/

E-Cigarette... Lexis® IPRO eDiscovery Cl...

ON
HOMEPAGE SHOP CHECKOUT CART TRACK YOUR ORDER LOGIN CART / \$0.00

HOME / LOON MAXX Showing 1-12 of 16 results Default sorting

BROWSE

- Loon Air
- Loon Air+
- Loon Max 20MG
- Loon Maxx**
- Loon Maxx Zero Nic
- Uncategorized

FILTER BY PRICE

Price: \$10 – \$20

Loon Maxx

Loon Maxx – APPLE BERRY
\$18.99 \$16.99

Loon Maxx

Loon Maxx – BAD BULL
\$18.99 \$16.99

Loon Maxx

Loon Maxx – BANANA BAD BULL
\$18.99 \$16.99

Chat with us, we're online!

loonvape.net/product-category/loon-air-2/

Online E-Cigarette... Lexis® IPRO eDiscovery Cl...

LOON
HOMEPAGE SHOP CHECKOUT CART TRACK YOUR ORDER LOGIN CART / \$0.00

HOME / LOON AIR Showing 1-12 of 15 results Default sorting

BROWSE

- Loon Air**
- Loon Air+
- Loon Max 20MG
- Loon Maxx
- Loon Maxx Zero Nic
- Uncategorized

FILTER BY PRICE

Price: \$10 – \$20

Loon Air

Loon Air – BLRRRD
\$19.99

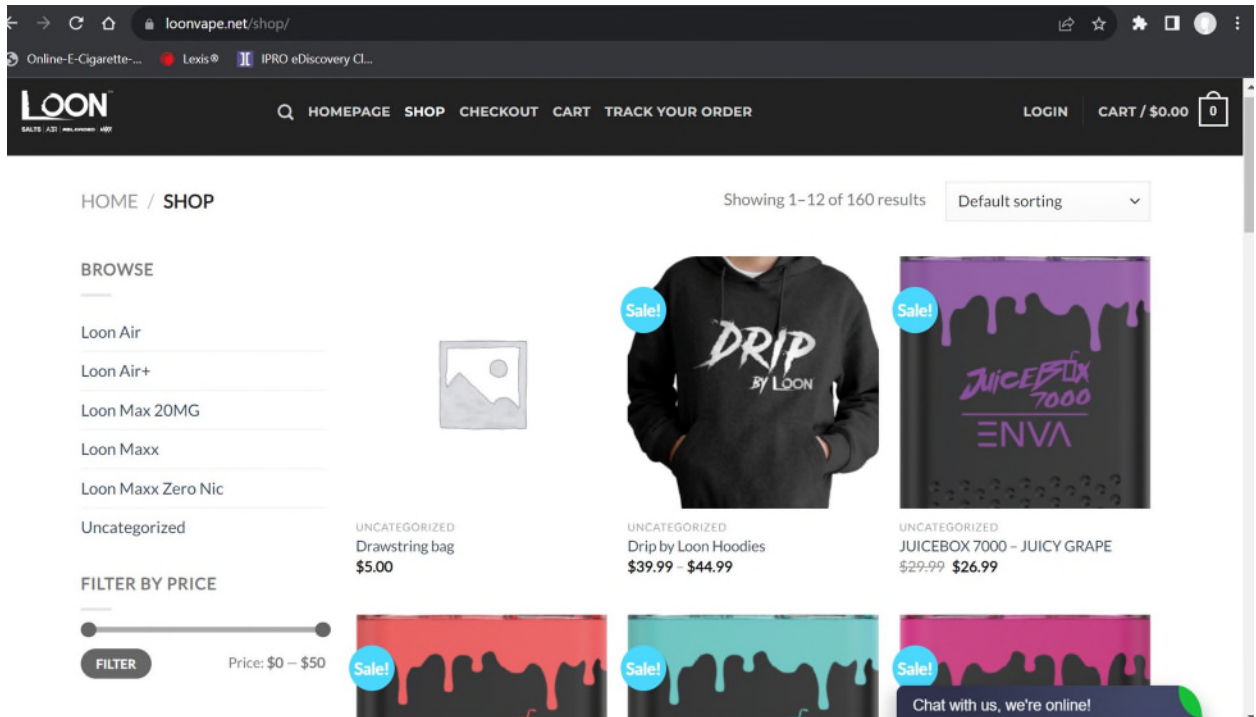
Loon Air

Loon Air – BOJEE GRAPE
\$19.99

Loon Air

Loon Air – COTTON CANDY
\$19.99

Chat with us, we're online!



COUNT I

(Violation of the Federal Anti-Cybersquatting Consumer Protection Act)

27. Maduro repeats and realleges each and every allegation set forth in the foregoing paragraphs, as though fully set forth herein.

28. Maduro's LOON Marks are well known and distinctive and were as such prior to the registration of the Defendant Domain Name.

29. The Defendant Domain Name fully incorporates the LOON Mark along with the generic term "vape," which adds no trademark significance.

30. The use of the LOON Marks within the Defendant Domain Name and associated website is without authorization from Maduro.

31. The Defendant Domain Name does not and cannot reflect the legal name of the registrant of the Domain Name.

32. The website displayed by the registrant of the Domain Name is very likely to be

confused with Maduro's legitimate online location at www.theloonmn.com as it imitates the legitimate website and the products displayed.

33. Upon information and belief, the registrant of the Defendant Domain Name registered the Domain Name with the intent to divert consumers seeking to purchase genuine LOON products online away from Maduro's online location at www.theloonmn.com, for commercial gain, by Defendant's adoption and unauthorized use in commerce of Maduro's LOON Marks and confusingly similar variations thereof in connection with the advertising, marketing, and sale of goods that are identical or nearly identical to those offered by Maduro. This action, as alleged herein, is likely to cause confusion, to cause mistake, or to deceive consumers as to the source, origin, affiliation, connection, or association of Defendant's goods, and is likely to cause consumers to mistakenly believe that Defendant's goods are real and authentic goods that have been authorized, sponsored, approved, endorsed, or licensed by Maduro, or that Defendant is in some way affiliated with Maduro or the goods that Maduro offers under its marks.

34. On information and belief, the owner of the Defendant Domain Name is using the website as a scam to obtain payments and contact information from customers, with no intent to send goods ordered through the Defendant Domain Name.

35. Some of the images used on the website associated with the Defendant Domain Name are outdated images of prior products that were previously located on Maduro's website or images of items that were discontinued, which Defendant is using without Maduro's authorization.

36. Some of the images used on the website associated with the Defendant Domain Name are current images of products that are located on Maduro's website, which Defendant is using without Maduro's authorization.

37. On information and belief, the goods offered for sale via the Defendant Domain

Name are either nonexistent or counterfeit, and the website posted at Defendant Domain Name is designed to defraud the public.

38. The aforesaid acts by the registrant of the Defendant Domain Name constitute registration, maintenance, or use of a domain name that is confusingly similar to Maduro's LOON Marks, with bad faith intent to profit therefrom.

39. The aforesaid acts by the registrant of the Domain Name constitute unlawful cyberpiracy in violation of the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)(1).

40. By reason of Defendant Domain Name's actions, the public and Maduro have suffered irreparable harm. Maduro's harm includes harm to its valuable trademarks and the goodwill associated therewith. Maduro has been and, unless Defendant is preliminarily and permanently restrained from its actions, will continue to be irreparably harmed.

41. Pursuant to 15 U.S.C. § 1125(d)(2)(D)(i), Maduro is entitled to an order transferring, by VeriSign, Inc., ownership and registration of the Defendant Domain Name's domain name to Maduro Distributors, Inc., owner of the LOON Marks.

RELIEF REQUESTED

WHEREFORE, Maduro requests that this Court enter judgment in favor of Maduro, specifying that:

a. Defendant Domain Name has and continues to willfully engage in unlawful cyberpiracy in violation of 15 U.S.C. §1125(d);

b. The Defendant Domain Name be transferred from the current domain name registrant and registrar to Maduro's domain name registrar of choice and by such registrar's change of the registrant to Maduro Distributors, Inc.;

c. For an order that Defendant, its affiliates, officers, directors, agents, representatives, attorneys, and all persons acting or claiming to act on their behalf or under their direction or authority, and all persons acting in concert or participation therewith, be preliminarily and permanently enjoined from using the LOON Marks and/or any confusingly similar marks or colorable imitations thereof in connection with the promotion, advertisement, display, sale, or distribution of any goods or services offered by Defendant Domain Name;

d. Any other domain names registered by the registrant(s) of the Defendant Domain Name that resemble or include any of the LOON Marks be transferred to Maduro Distributors, Inc.;

f. For an award of Maduro's costs, disbursements, and reasonable attorney's fees incurred by Maduro in this action pursuant to 15 U.S.C. § 1117(a), or as otherwise allowed by law or equity;

g. For an order awarding attorneys' fees for violation of the Lanham Act, or as otherwise allowed by law or equity;

h. For an award of interest, including prejudgment and post-judgment interest at the statutory rate; and

i. Any other additional relief as the Court deems just and proper.

DEMAND FOR A JURY TRIAL

Maduro respectfully requests a trial by jury on all issues raised in this Complaint.

Dated: December 4, 2023

THOMPSON HINE LLP

By: /s/ Eric N. Heyer

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Counsel for Plaintiff Maduro Distributors, Inc.

VERIFICATION

I, Eric N. Heyer, hereby state under penalty of perjury that I am counsel of record for Plaintiff Maduro Distributors, Inc. and have been authorized to provide this verification; that, based on the factual investigation undertaken by my colleagues and me as counsel for Maduro, to the best of my knowledge, information, and belief, the facts set forth in the foregoing Verified Complaint are true and correct; and that this verification is submitted by me as counsel of record for Maduro because it is I and my law firm that have undertaken the factual investigation into the Defendant Domain Name at issue and the Registrant, Registry, and persons associated therewith.

_____/s/ Eric N. Heyer_____

Exhibit 1



domain.com



WHOIS Lookup

Check who owns a domain [?]

loonvape.net

✓ loonvape.net is already registered

loonvape.net

Unknown

Try To Buy

Domain Name: loonvape.net
Registry Domain ID: 2812409187_DOMAIN_NET-VRSN
Registrar WHOIS Server: whois.namesilo.com
Registrar URL: https://www.namesilo.com/
Updated Date: 2023-12-04T07:00:00Z
Creation Date: 2023-09-08T07:00:00Z

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Confirm

Registrar Abuse Contact Phone: +1.4805240066
Domain Status: clientTransferProhibited https://www.ic
Registry Registrant ID:
Registrant Name: REDACTED FOR PRIVACY
Registrant Organization: PrivacyGuardian.org llc
Registrant Street: 1928 E. Highland Ave. Ste F104 PMB#
Registrant City: Phoenix
Registrant State/Province: AZ
Registrant Postal Code: 85016
Registrant Country: US
Registrant Phone: +1.3478717726
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: pw-1795e7b81bc05876762fc1e58a2c1082@
Registry Admin ID:
Admin Name: Domain Administrator
Admin Organization: PrivacyGuardian.org llc
Admin Street: 1928 E. Highland Ave. Ste F104 PMB# 255
Admin City: Phoenix
Admin State/Province: AZ
Admin Postal Code: 85016
Admin Country: US
Admin Phone: +1.3478717726
Admin Phone Ext:
Admin Fax:
Admin Fax Ext:
Admin Email: pw-1795e7b81bc05876762fc1e58a2c1082@priva
Registry Tech ID:
Tech Name: Domain Administrator
Tech Organization: PrivacyGuardian.org llc
Tech Street: 1928 E. Highland Ave. Ste F104 PMB# 255
Tech City: Phoenix
Tech State/Province: AZ
Tech Postal Code: 85016
Tech Country: US
Tech Phone: +1.3478717726

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Tech Email: pw-1795e7b81bc05876762fc1e58a2c1082@privac
Name Server: NS1.DNS-PARKING.COM
Name Server: NS2.DNS-PARKING.COM
DNSSEC: unsigned
URL of the ICANN WHOIS Data Problem Reporting System:
>>> Last update of WHOIS database: 2023-12-04T07:00:00

For more information on Whois status codes, please vis

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query, you agree to abide by the following terms of us
use this Data only for lawful purposes and that under
use this Data to: (1) allow, enable, or otherwise supp
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or facsimile; or (2) enable high volume, automated, el
apply to us (or our computer systems). The compilation
dissemination or other use of this Data is expressly p
prior written consent. We reserve the right to termina
WHOIS database at our sole discretion, including witho
excessive querying of the WHOIS database or for failur
this policy. We reserve the right to modify these term

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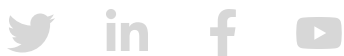
<https://www.namesilo.com>

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Transfer a Domain	Login	Contact Us	
Marketplace		WHOIS	
Pricing		Live Chat	

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